

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant: Raanan Fattal et al.

Invention: SYSTEM AND METHOD FOR COMPRESSING THE
DYNAMIC RANGE OF AN IMAGE

Application Filing Date: 15 January 2003

Papers Accorded

International Application. No.: PCT/US03/01217 and PCT/IB03/00391

PETITION FOR FILING DATE UNDER 35 U.S.C. 111(a)

Mail Stop PCT
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

RECEIVED
19 FEB 2004
Legal Staff
International Division

Dear Sir:

On 15 January 2003 applicants filed patent application papers having a specification (including claims) and a drawing. The application papers included a first cover letter (copy enclosed as Exhibit A) stating "UNITED STATES PATENT APPLICATION OF RAANAN FATTAL, DANI LISCHINSKI AND MICHAEL WERMAN FOR SYSTEM AND METHOD FOR COMPRESSING THE DYNAMIC RANGE OF AN IMAGE" and having a certificate of "Express Mail" with a date of deposit of 15 January 2003 and signed by Richard Jordan. A second letter (copy enclosed as Exhibit B) was included with the papers filed on 15 January 2003 and further identifies applicants' request for a U.S. national application filing date by stating "Please find enclosed a patent application as follows:", "Applicant(s) Raanan Fattal, Dani Lischinski And Michael Werman", "Title: System And Method For Compressing The Dynamic Range Of An Image 31 Pages Specification, including 30 Claims and Abstract 1 Sheets Formal Drawings", "Applicant claims Small Entity status", and "Basic Fee \$370 Additional Fees: Total Claims 30, minus 20 = 10 x \$9.00 = \$90.00 Total Ind. Claims 3, minus 3 = 0 x \$42.00 = \$0.00... Total Filing Fee \$460.00." The second letter concludes with "If this application is found otherwise to be INCOMPLETE, or if at any time it appears that a TELEPHONE CONFERENCE with counsel would helpfully advance prosecution, please telephone the undersigned in Wellesley, Massachusetts, at (781) 431-1357."

The application papers deposited 15 January 2003 also included a Request (form PCT/RO/101) asking that the present international application be processed according to the Patent Cooperation Treaty. Applicants have been accorded an international application No. (PCT/IB03/00391) and international filing date of 15 January 2003, but there has been no acknowledgement of the requested treatment as a U.S. national patent application and recent inspection of the U.S. Patent and Trademark Office record (file No. PCT/US03/01217) reveals there is no documentation of any attempt to contact counsel in Wellesley, Massachusetts or via telephone at (781) 431-1357 regarding treatment as a U.S. national patent application.

Relief Requested.

Applicants in the above-referenced application hereby petition for a filing date under 35 U.S.C. 111(a) based on the U.S. national application papers filed 15 January 2003. 35 U.S.C. 111(a)(4) states, in part, that “[t]he filing date of an application shall be the date on which the application and any required drawing are received in the Patent and Trademark Office.” The above facts demonstrate that a U.S. national application (including the description, claims, abstract and drawing now published as WO03/061266) was received in the Patent and Trademark Office on 15 January 2003. A copy of WO03/061266 is provided with this petition for use as the specification, claims, abstract and drawings of the U.S. national application. Accordingly, it is requested that a filing receipt for such U.S. national application be promptly forwarded to applicants and that the application be forwarded for examination as prescribed by 35 U.S.C. 131.

First Alternative Relief.

A second U.S. national application was filed after several status inquiries resulted in a finding that no application number or filing date had been accorded to the above U.S. national application. The second application is a copy of the specification, claims, abstract and drawing filed 15 January 2003 and was accorded U.S. application No. 10/697,967 and a filing date of 30 October 2003.

As an alternative it is requested that U.S. application No. 10/697,967 filed 30 October 2003 be accorded a filing date of 15 January 2003 and that applicants claim for benefit under 35 U.S.C. 119(e) of provisional application No. 60/349,568 filed 15 January 2002 be accepted as timely. The priority claim was included with the U.S. national application filed on 15 January 2003, see Exhibit B attached to this petition which includes the statement that “[p]riority is hereby claimed based on Application Ser. No. 60/349,568, filed January 15, 2002.” Accordingly, it is appropriate that grant of this relief include a determination that applicants’ claim for benefit of the ‘568 provisional application is timely under 37 CFR 1.78(a)(2)(ii).

Second Alternative Relief.

The application papers deposited with the U.S. Patent and Trademark Office on 15 January 2003 clearly asked for a filing date in all PCT member states. That is, the papers filed 15 January 2003 (Exhibits A and B - attached hereto) asked for a U.S. filing date and the Request (form PCT/RO/101) designated all possible regional and national designations except the U.S.

In view of the clear indication that a filing date for all PCT member countries (including the U.S.) was indicated in the application papers filed 15 January 2003 it is appropriate that international application No. PCT/IB03/00391 include the designation of the U.S.

Notwithstanding that the U.S. designation was not indicated in the Request, the above facts demonstrate that a U.S. filing date was requested for the application and it is appropriate for the international application papers to be amended to include the designation of the U.S. (this petition may be treated as a request under PCT Rule 91.1 for rectification of the Request (form PCT/RO/101) filed 15 January 2003 to include the designation of the U.S. and a request under PCT Rule 92bis to change the inventors to applicant and inventors for the U.S.). A copy of PCT Receiving Office Guidelines, paragraph No. 94, is attached hereto as Exhibit C and supports changing the inventors indicated in the Request to applicants and inventors for the U.S.

The U.S. Patent and Trademark Office has authority under 35 U.S.C. 367 to accord the relief requested in this second alternative and the U.S. Patent and Trademark Office has authority to request (or support Applicants’ request to the International Bureau) for correcting International Application No. PCT/IB03/00391 to include the designation of the U.S.

Conclusion.

In view of the above, it is requested that Applicants be accorded a filing date under 35 U.S.C. 111(a) based on the U.S. national application papers filed 15 January 2003 and that the application be forwarded for examination as prescribed by 35 U.S.C. 131. Alternatively, it is requested that U.S. application No. 10/697,967 be accorded a filing date of 15 January 2003 with Applicants' claim for benefit of the '568 provisional application being indicated as timely under 37 CFR 1.78(a)(2)(ii) or, as a second alternative, to either cause PCT/IB03/00391 to include the designation of the U.S. or provide a determination that such application is pending in the U.S. (35 U.S.C. 367).

If there are any questions or concerns, please call the undersigned at 202-371-6348.

The Commissioner is authorized to charge any necessary fees, or credit any overpayments, to Barnes & Thornburg Deposit Account No. 02-1010 with reference to our Attorney Docket No. 34201-41893.

Respectfully submitted,



Richard B. Lazarus
Registration No. 48,215

BARNES & THORNBURG
750 17th Street, N. W., Suite 900
Washington, D.C. 20006

Dated: 17 February 2004